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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 2nd August, 1983:—

BILL No. 87 OF 1983

A Bill further to amend the Arms Act, 1959

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Arms (Amendment) Act, 1983.

(*2*) It shall be deemed to have come into force on the 22nd day of June, 1983.

54 of 1959.

Amendment of section 2.

2 In section 2 of the Arms Act, 1959 (hereinafter referred to as the principal Act), in sub-section (*1*), after clause (*f*), the following clause shall be inserted, namely:—

2 of 1974.

'(*ff*) "magistrate" means an Executive Magistrate under the Code of Criminal Procedure, 1973;'.

Amendment of section 3.

3. Section 3 of the principal Act shall be re-numbered as sub-section (*1*) thereof and after sub-section (*1*), as so re-numbered, the following sub-sections shall be inserted, namely:—

"(*2*) Notwithstanding anything contained in sub-section (*1*), no person, other than a person referred to in sub-section (*3*), shall acquire, have in his possession or carry, at any time, more than three firearms:

Provided that a person who has in his possession more firearms than three at the commencement of the Arms (Amendment) Act, 1983, may retain with him any three of such firearms and shall

deposit, within thirty days from such commencement, the remaining firearms with the officer in charge of the nearest police station or, subject to the conditions prescribed for the purposes of sub-section (*1*) of section 21, with a licensed dealer or, where such person is a member of the armed forces of the Union, in a unit armoury referred to in that sub-section.

(*3*) Nothing contained in sub-section (*2*) shall apply to any dealer in firearms or to any member of a rifle club or rifle association licensed or recognised by the Central Government using a point 22 bore rifle or an air rifle for target practice.

(*4*) The provisions of sub-sections (*2*) to (*6*) (both inclusive) of section 21 shall apply in relation to any deposit of firearms under the proviso to sub-section (*2*) as they apply in relation to the deposit of any arm or ammunition under sub-section (*1*) of that section.".

Amendment of section 5.

4. Section 5 of the principal Act shall be re-numbered as sub-section (*1*) thereof and—

(*a*) in sub-section (*1*) as so re-numbered, the proviso shall be omitted;

(*b*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (*1*), a person may, without holding a licence in this behalf, sell or transfer any arms or ammunition which he lawfully possesses for his own private use to another person who is entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited by this Act or such other law from having in his possession such arms or ammunition:

Provided that no firearm or ammunition in respect of which a licence is required under section 3 and no arms in respect of which a licence is required under section 4 shall be so sold or transferred by any person unless—

(*a*) he has informed in writing the district magistrate having jurisdiction or the officer in charge of the nearest police station of his intention to sell or transfer such firearms, ammunition or other arms and the name and address of the person to whom he intends to sell or transfer such firearms, ammunition or the other arms, and

(*b*) a period of not less than forty-five days has expired after the giving of such information.".

Amendment of Section 9.

5. In section 9 of the principal Act, in sub-section (*1*), in clause (*a*),—

(*a*) in sub-clause (*i*), for the words "sixteen years", the words "twenty-one years" shall be substituted;

(*b*) in sub-clause (*ii*), for the words "a term of not less than six months", the words "any term" shall be substituted; and

(c) in sub-clause (*iii*), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898.
2 of 1974.

Amendment of section 13.

6. In section 13 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) On receipt of an application, the licensing authority shall call for the report of the officer in charge of the nearest police station on that application, and such officer shall send his report within the prescribed time.

(2A) The licensing authority, after such inquiry, if any, as it may consider necessary, and after considering the report received under sub-section (2), shall, subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same:

Provided that where the officer in charge of the nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time, without further waiting for that report.".

Insertion of new sections 24A and 24B.

7. In Chapter IV of the principal Act, after section 24, the following sections shall be inserted, namely:—

Prohibition as to possession of notified arms in disturbed areas, etc.

'24A. (1) Where the Central Government is satisfied that there is extensive disturbance of public peace and tranquillity or imminent danger of such disturbance in any area and that for the prevention of offences involving the use of arms in such area, it is necessary or expedient so to do, it may by notification in the Official Gazette—

(a) specify the limits of such area;

(b) direct that before the commencement of the period specified in the notification (which period shall be a period commencing from a date not earlier than the fourth day after the date of publication of the notification in the Official Gazette), every person having in his possession in such area any arms of such description as may be specified in the notification (the arms so specified being hereafter in this section referred to as notified arms), shall deposit the same before such commencement in accordance with the provisions of section 21 and for this purpose the possession by such person of any notified arms shall, notwithstanding anything contained in any other provision of this Act (except section 41) or in any other law for the time being in force, as from the date of publication of such notification in the Official Gazette be deemed to have ceased to be lawful;

(c) declare that as from the commencement of, and until the expiry of, the period specified in the notification, it shall not be lawful for any person to have in his possession in such area any notified arms;

(d) authorise any such officer subordinate to the Central Government or a State Government as may be specified in the notification,—

(i) to search at any time during the period specified in the notification any person in, or passing through, or any

premises in, or any animal or vessel or vehicle or other conveyance of whatever nature in or passing through, or any receptacle or other container of whatever nature in, such area if such officer has reason to believe that any notified arms are secreted by such person or in such premises or on such animal or in such vessel, vehicle or other conveyance or in such receptacle or other container;

(*ii*) to seize at any time during the period specified in the notification any notified arms in the possession of any person in such area or discovered through a search under sub-clause (*i*), and detain the same during the period specified in the notification.

(*2*) The period specified in a notification issued under sub-section (*1*) in respect of any area shall not, in the first instance, exceed ninety days, but the Central Government may amend such notification to extend such period from time to time by any period not exceeding ninety days at any one time if, in the opinion of that Government, there continues to be in such area such disturbance of public peace and tranquillity as is referred to in sub-section (*1*) or imminent danger thereof and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do.

(*3*) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to any search or seizure made under sub-section (*1*). 2 of 1974.

(*4*) For the purposes of this section,—

(*a*) "arms" includes ammunition;

(*b*) where the period specified in a notification, as originally issued under sub-section (*1*), is extended under sub-section (*2*), then, in relation to such notification, references in sub-section (*1*) to "the period specified in the notification" shall be construed as references to the period as so extended.

Prohibition as the carrying of notified arms in or through public places in disturbed areas, etc.

24B. (*1*) Where the Central Government is satisfied that there is extensive disturbance of public peace and tranquillity or imminent danger of such disturbance in any area and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do, it may, by notification in the Official Gazette,—

(*a*) specify the limits of such area;

(*b*) direct that during the period specified in the notification (which period shall be a period commencing from a date not earlier than the second day after the date of publication of the notification in the Official Gazette), no person shall carry or otherwise have in his possession any arms of such description as may be specified in the notification (the arms so specified being hereafter in this section referred to as notified arms) through or in any public place in such area;

(c) authorise any such officer subordinate to the Central Government or a State Government as may be specified in the notification,—

(*i*) to search at any time during the period specified in the notification any person in, or passing through, or any premises in or forming part of, or any animal or vessel or vehicle or other conveyance of whatever nature in or passing through, or any receptacle or other container of whatever nature in, any public place in such area if such officer has reason to believe that any notified arms are secreted by such person or in such premises or on such animal or in such vessel, vehicle or other conveyance or in such receptacle or other container;

(*ii*) to seize at any time during the period specified in the notification any notified arms being carried by or otherwise in the possession of any person, through or in a public place in such area of discovered through a search under sub-clause (*i*), and detain the same during the period specified in the notification.

(*2*) The period specified in a notification issued under sub-section (*1*) in respect of any area shall not, in the first instance, exceed ninety days, but the Central Government may amend such notification to extend such period from time to time by any period not exceeding ninety days at any one time if, in the opinion of that Government, there continues to be in such area such disturbance of public peace and tranquillity as is referred to in sub-section (*1*) or imminent danger thereof and that for the prevention of offences involving the use of arms in such area it is necessary or expedient so to do.

2 of 1974. (*3*) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to any search or seizure made under sub-section (*1*).

(*4*) For the purposes of this section,—

(*a*) "arms" includes ammunition;

(*b*) "public place" means any place intended for use by, or accessible to, the public or any section of the public; and

(c) where the period specified in a notification, as originally issued under sub-section (*1*), is extended under sub-section (*2*), then in relation to such notification, references in sub-section (*1*) to "the period specified in the notification" shall be construed as references to the period as so extended.'.

8. In section 25 of the principal Act,— Amendment of section 25.

(*a*) for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"(*1*) Whoever—

(*a*) manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or

has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5; or

(*b*) shortens the barrel of a firearm or converts an imitation firearm into a firearm in contravention of section 6; or

(*c*) acquires, has in his possession or carries, or manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition in contravention of section 7; or

(*d*) brings into, or takes out of, India, any arms or ammunition of any class or description in contravention of section 11,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

(*1A*) Whoever has in contravention of a notification issued under section 24A in his possession or in contravention of a notification issued under section 24B carries or otherwise has in his possession, any arms or ammunition shall be punishable with imprisonment for a term which shall not be less than one year, but which may extend to five years and shall also be liable to fine.

(*1B*) Whoever—

(*a*) acquires, has in his possession or carries any firearm or ammunition in contravention of section 3; or

(*b*) acquires, has in his possession or carries in any place specified by notification under section 4 any arms of such class or description as has been specified in that notification in contravention of that section; or

(*c*) sells or transfers any firearm which does not bear the name of the maker, manufacturer's number or other identification mark stamped or otherwise shown thereon as required by sub-section (*2*) of section 8 or does any act in contravention of sub-section (*1*) of that section; or

(*d*) being a person to whom sub-clause (*ii*) or sub-clause (*iii*) of clause (*a*) of sub-section (*1*) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section; or

(*e*) sells or transfers, or converts, repairs, tests or proves any firearm or ammunition in contravention of clause (*b*) of sub-section (*1*) of section 9; or

(*f*) brings into, or takes out of, India, any arms or ammunition in contravention of section 10; or

(*g*) transports any arms or ammunition in contravention of section 12; or

(*h*) fails to deposit arms or ammunition as required by sub-section (*2*) of section 3, or sub-section (*1*) of section 21; or

(*i*) being a manufacturer of, or dealer in, arms or ammunition, fails, on being required to do so by rules made under section 44, to maintain a record or account or to make therein all such entries as are required by such rules or intentionally makes a false entry therein or prevents or obstructs the inspection of such record or account or the making of copies of entries therefrom or prevents or obstructs the entry into any premises or other place where arms or ammunition are or is manufactured or kept or intentionally fails to exhibit or conceals such arms or ammunition or refuses to point out where the same are or is manufactured or kept,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and shall also be liable to fine:

Provided that the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than six months.";

(*b*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) Whoever sells or transfers any firearm, ammunition or other arms—

(*i*) without informing the district magistrate having jurisdiction or the officer in charge of the nearest police station, of the intended sale or transfer of that firearm, ammunition or other arms; or

(*ii*) before the expiration of the period of forty-five days from the date of giving such information to such district magistrate or the officer in charge of the police station,

in contravention of the provisions of clause (*a*) or clause (*b*) of the proviso to sub-section (*2*) of section 5, shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.".

Substitution of new section for section 26.

9. For section 26 of the principal Act, the following section shall be substituted, namely:—

Secret contraventions.

"26. (*1*) Whoever does any act in contravention of any of the provisions of section 3, 4, 10 or 12 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and also with fine.

(2) Whoever does any act in contravention of any of the provisions of section 5, 6, 7 or 11 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance, shall be punishable with imprison-

ment for a term which shall not be less than five years but which may extend to ten years and also with fine.

(3) Whoever on any search being made under section 22 conceals or attempts to conceal any arms or ammunition, shall be punishable with imprisonment for a term which may extend to ten years and also with fine."

Amendment of sections 27 and 28.

10. In sections 27 and 28 of the principal Act, for the words " , or with fine, or with both", the words "and with fine" shall be substituted.

Amendment of section 29.

11. In section 29 of the principal Act, for the words "six months, or with fine of an amount which may extend to five hundred rupees, or with both", the words "three years, or with fine, or with both" shall be substituted.

Amendment of section 30.

12. In section 30 of the principal Act, for the words "three months", the words "six months" and for the words "five hundred", the words "two thousand" shall be substituted.

Amendment of section 34.

13. In section 34 of the principal Act,—

(a) for the words and figures "Sea Customs Act, 1878", the words and figures "Customs Act, 1962" shall be substituted; 8 of 1878. 52 of 1962.

(b) for the word and figures "section 16", the word and figures "section 58" shall be substituted.

Amendment of sections 37 and 38.

14. In sections 37 and 38 of the principal Act, for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 41.

15. In section 41 of the principal Act, in clause (a), for the words "exempt any person or class of persons", the words and brackets "exempt any person or class of persons (either generally or in relation to such description of arms and ammunition as may be specified in the notification)" shall be substituted.

Amendment of section 44.

16. In section 44 of the principal Act,—

(a) in sub-section (2), in clause (a), after the words "licensing authorities", the words "including the areas and the categories of arms and ammunition for which they may grant licences" shall be inserted;

(b) in sub-section (3), for the words "two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

Repeal and saving.

17. (1) The Arms (Amendment) Ordinance, 1983, is hereby repealed. 4 of 1983.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Arms Act, 1959 (54 of 1959) was enacted about Twenty-four years ago. Of late, there has been an increasing incidence of crime involving use of firearms. Apart from unlicenced firearms, the involvement of licenced firearms in crime has also been on the increase. The Arms (Amendment) Bill, 1981 (Bill No. XXI of 1981) was, therefore, introduced in Parliament in 1981 to provide for greater vigilance on the issue of licences for firearms and sale and transfer of those arms with the objective of ensuring that firearms do not come into possession of anti-social elements. The Bill also provided for enhancement of punishment for offences as also for minimum punishment for more serious offences under the Act, with the objective of acting as a strong deterrent.

2. The aforesaid Bill which was introduced in Rajya Sabha on the 14th August, 1981 was passed by that House on 8th September, 1981 and it is now pending in Lok Sabha. After the passing of the Bill by Rajya Sabha, a number of valuable suggestions for further amendments of the Arms Act 1959 so as to make the provisions of the Act more stringent and effective were received from Members of Parliament as also from other quarters. The intention originally was to move the necessary amendments to the Bill after completing the examination of the various suggestions in depth. However, the trend of recent events in certain parts of the country was such that there was an imminent danger of extensive disturbance of public peace and tranquillity in certain areas and it, therefore, became urgently necessary to make the provisions of the Arms Act more stringent and effective so as to prevent the misuse of arms and the commission of offences involving the of arms . The President, therefore, promulagted the Arms (Amendment) Ordinance, 1983 (4 of 1983) on the 22nd day of June, 1983.

3. Subject to changes aimed at making the punishments for certain offences more stringent and to certain changes of a verbal or consequential nature, the Ordinance provided for all the amendments contained in the Arms (Amendment) Bill as passed by Rajya Sabha. Further, the Ordinance provided for the insertion of new sections 24A and 24B in the Act (*vide* clause 7 of the Bill). New section 24A deals with prohibition as to possession of notified arms in distrurbed areas while new section 24B deals with prohibition as to carrying of or otherwise having in possession notified arms through or in public places in disturbed areas. The Ordinance also amended section 41 relating to the power to exempt and sub-section (2) of section 44 relating to the power to make rules to bring out the intention underlying those provisions more clearly.

4. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI; P. C. SETHI.
The 20th July, 1983.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (2) of section 13 of the Arms Act, 1959 provides for the procedure to be followed by the licensing authority in deciding an application for the grant of a licence. Clause 6 of the Bill seeks to substitute that sub-section by two new sub-section (2) and (2A). Under new sub-section (2), the licensing authority has to obtain a police report on an application for a licence. The time within which such police reports have to be submitted is left to be prescribed by rules.

2. Clause 7 of the Bill seeks to insert two new sections 24A and 24B. New section 24A seeks to empower the Central Government to prohibit, by notification in the Official Gazette, possession of arms and ammunition of the description mentioned in the notification in any area specified in the notification, while new section 24B seeks to empower the Central Government to prohibit, by notification in the Official Gazette, carrying or otherwise having in possession arms and ammunition of the description mentioned in the notification through or in any public place in any area specified in the notification. It has been made clear in both the sections that the Central Government can specify any area in a notification thereunder only if it is satisfied that there is extensive disturbance of public peace and tranquillity or imminent danger of such disturbance in such area and that for the prevention of offences involving the use of arms in such area or, as the case may be, in public places in such area, it is necessary to take action under those sections in respect of such area public places in such area. Under both the sections, the Central Government is empowered to authorise any officers subordinate to that Government or a State Government to search and seize arms in the circumstances mentioned in those sections. It has been made clear in both the sections that the provisions of the Code of Criminal Procedure as to searches and seizures will apply to searches and seizures under those sections.

3. The powers proposed to be delegated under the aforementioned provisions pertain to matters of detail or to contingency involving varying circumstances which cannot be visualised and provided for in the legislstion itself. The delegation of legislative powers is, therfore, of a normal character.

AVTAR SINGH RIKHY,
Secretary,

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